

TOWN OF UNION MONTHLY BOARD MEETING

Minutes for August 7, 2008

The Town of Union Monthly Board Meeting was called to order at 7:03 p.m. on Thursday, August 7, 2008 at the Eager Free Public Library, 39 W. Main Street, Evansville, WI by Chairman Kendall Schneider. Supervisors George Franklin and Don Krajeck, Constable Kim Gruebling, Building Inspector Bob Fahey, and Clerk Regina Ylvisaker were also present. Plan Commission members Doug Lee, Dave Pestor, Alvin Francis and Renee Exum were also in attendance. The Pledge of Allegiance was recited.

Clerk's Minutes (July 10 & July 28, 2008)

Motion to approve the minutes of the July 10, 2008 and July 28, 2008 Town Board Meeting minutes made by Don Krajeck. Second by George Franklin. Motion carried by unanimous voice vote.

Treasurer's Report

Treasurer Sharon Franklin was not in attendance, the Treasurer's report was presented by Supervisor Franklin. Chairman Schneider stated that the remaining balance on the invoice for repair work done on N. East Union Road was due this month; the Town has borrowed \$85,000 to cover the costs on this invoice.

Local Government Investment Pool General Fund	\$	1,088.81	
Park and Recreation Fund	\$	12,243.30	
UB&T Money Market Sweep Account	-\$	75,031.81	(\$ 3,803.19
Of Which \$0 is Contingency Fund,			as of 8.6.08)
And \$5,000 is Re-Valuation Fund			
UB&T Checking Account	\$	15,000.00	
Leedlemill Bridge Certificate of Deposit	\$	17,543.72	
Wayne Disch Memorial Park Fund	\$	2,009.98	
Morning Ridge Stub Road Certificate of Deposit	\$	18,807.19	
Escrow Accounts:			
Conifer Hills 3 rd Addition	-\$	291.80	
Robert Janes/Bakers Crossing	-\$	3,284.23	

Escrow Accounts (Conifer Hills, Baker's Crossing Estates); status of funds.

Ron Combs was in attendance to represent Chuck and Delores Rohloff/Conifer Hills. He stated that he has received copies of the bills from the Town Engineer and Town Attorney related to Conifer Hills and has come up with different totals than what the Town originally stated. Combs stated that the Rohloffs provided the Town with two checks for the escrow account in 2006, one in the amount of \$4,000 and one in the amount of \$1,000. His concern is with the amount of money spent on a small, six lot subdivision in the way of engineering and attorney fees. Bob Janes/Baker's Crossing Estates was in attendance and expressed the same concerns regarding attorney fees related to his subdivision request. Janes had sent an email to the Board several months ago expressing these concerns, and has not yet received a response.

Schneider stated that the Board will be holding a special meeting around August 20 to approve bills for payment once funds are received from the County; he would like to address these concerns at that meeting as well. All were agreeable to this; the issue will be added to the agenda and all parties will be notified once a date for the meeting is set.

Building Inspector's Report

Bob Fahey presented the Building Inspectors Report.

Date	Permit #	Parcel #	Name	Address	Description	Construction Cost	Permit Fee	Inspector's Fee Due
7-9-08	08-27-B	6-20-330.19	Dale & Carmen Sabroff	15564 W Francis Rd	Foundation & slab for possible addition to garage.	\$ 3,500.00	\$ 60.00	\$ 55.00

Constable's Report

Constable Kim Gruebling reported receiving 6 calls; 3 of the calls resulted in dogs being returned to their owners. He received one complaint of 2 dogs wandering on Hwy.14; the issue had been resolved once he arrived at the location. One barking dog complaint was referred to the Rock County Sheriff's Department. Also received one call about a stray peacock, which was returned to its owner.

Brush Report

Franklin reported trimming around stop signs; Schneider had also performed some trimming within the last week. Doug Lee stated that the stop sign on Brooklyn-Evansville Road is unable to be seen until you get right up to it. Lee expressed complaints about the stop signs in the Town; he believes the Town is too slow in replacing stop signs and correcting impaired views of stop signs.

Schneider referenced the brush letter that had been sent to landowners in the past; it will be revised and added to, to ensure that landowners take care of the brush along roads that is their responsibility. He believes that per the Town's ordinance, the Town has the authority to chargeback costs related to clearing brush to landowners. Lee offered assistance to landowners who are elderly or otherwise unable to take care of these issues on their own.

Citizen comment: 3 minutes max/issue

Tonto Abey, representing his father, inquired about the amount of money that has been spent on attorney fees related to wind energy thus far. Clerk Regina Ylvisaker reported that since 2007, the beginning of the process to develop both the small and large wind energy ordinances, legal fees total \$14,759. Renee Exum stated that she has put in over 50 hours of her own time on the issue; she is normally billed out by her legal firm at \$140 per hour. This has saved the Town a significant amount of money. Lee expressed his gratitude to all the individuals who have put in time and effort on this issue.

A Rock County Sheriff's Deputy was in attendance to answer any citizen questions, and address any concerns. None were reported.

Public Hearing: Extension of Ordinance 2007-02, An Ordinance to Impose a Temporary Stay on Construction of Large Wind Energy Systems in the Town of Union. The current moratorium expires on August 13, 2008. The Plan Commission has requested an extension of the moratorium until November 15, 2008.

Public hearing opened at 7:27 pm.

Cathy Bembinster: thinks the moratorium should be extended, citing the addition of 3 new Plan Commission members since April who are not up to speed on the issue and the history. It is a complex issue; the Plan Commission has worked very hard on it, and is being very detail oriented to get it right for the citizens of the Town.

Susan Pestor: is in favor of extending the moratorium, so the ordinance can be done right the first time.

Matt Gaboda: believes the Town is slowly but surely getting closer to a final product, and should keep going. Suggests that the Plan Commission and Citizens Committee members meet without the Town's attorney present to work out issues to cut costs. Might be more progress made that way. Believes that the Town should take whatever time it needs to get the ordinance done right.

Tonto Abey: the State has a model wind ordinance, questions why the Town is not using this existing ordinance. Believes that it adequately protects the health and safety of the Town's residents, and is simple.

Doug Lee: is one of the new members of the Plan Commission. Explained that the ordinance the Town is developing is specific to the needs of the Town of Union, which is one reason the State model ordinance was not used. He has not heard any complaints about what the Plan Commission and Town has been doing to draft the ordinance except from those people who have a financial interest in the turbines. Believes the Plan Commission has been fair throughout the process. They are trying to look to the future when drafting the ordinance. The members of the Plan Commission and the Citizens Committee have donated a lot of time to work on this project.

Kim Gruebling: at this point in time the ordinance is not finalized, so if the moratorium is not extended the Town will be left with nothing at all. Was not in favor of extending the moratorium, voted against recommending the extension. However, Gruebling recognizes that at this point the extension is necessary.

Delores Rohloff: cited the ethanol plant in Evansville, and the research that could have been done to avoid the situation the facility is in now. The lesson learned should be to take our time and consider the issue thoroughly.

Public hearing closed at 7:33 pm

Don Krajeck commented on Gaboda's remarks; he agrees that the process would go a lot faster if the Plan Commission wrote the ordinance on its own the way they wanted it, and then had the attorney do a final review. Recognizes that the process takes a lot of time when it is being reviewed line by line. Schneider stated that the recitals took a lot of time, Exum and Cathy Bembinster would both like to meet with the attorney to finalize some issues related to the recitals. Schneider suggested that perhaps the Board could authorize attorney time for this to be done to finalize some issues. Lee stated that if the Plan Commission was not so concerned about being fair to everyone involved, they would set the setback and be done with it.

Motion to extend the large wind energy moratorium to November 15, 2008 made by Don Krajeck.
Second by George Franklin.

Roll call vote: Kendall Schneider – Yes; George Franklin – Yes; Don Krajeck – Yes. Motion carried 3-0.

Public Hearing: Removal of "MET Towers" from the Ordinance to Impose a Temporary Stay on Construction of Large Wind Energy Systems in the Town of Union.

Public hearing opened at 7:42 pm.

Cathy Bembinster: stated that MET towers are covered under the small wind energy ordinance, which was tabled.

Curt Bjurlin, Eco Energy: would like to be able to put up a wind measurement tower within the Town of Union; thus far they have been basing their information on a tower in Magnolia. MET towers are a more accurate way to assess the wind resources in the area. Distributed descriptions of MET towers to the Board. Bjurlin explained that the MET towers are 199 feet tall, a tubular tower with guy wires. They are intended to be non-permanent structures. The footprint is small for the towers themselves, but the guy wires extend outward from the towers into the surrounding land. Schneider asked if they would take up more space than an actual wind turbine; Bjurlin stated that they would, due to the guy wires. He explained that generally people farm in and around the wires. The actual tower is 196 feet tall; with the addition of a cell antenna on top it is brought up to 199 feet. EcoEnergy would like to put one up ASAP.

Sue Pector: believes the MET towers should stay in the moratorium. The towers are not located at hub height, which would be an actual wind speed measurement. So they would not be providing accurate data on wind speed.

Bob Janes: inquired as to the type of approvals the tower would require. Schneider stated they would require a conditional use permit. Bob Fahey clarified that the existing application would be used.

Tonto Abey: in favor of removing the MET towers from the moratorium so one can be put up. The neighborhood is divided on the issue right now, and they need something concrete so they know where they're going with the issue.

Jim Bembinster: is opposed to taking them out of the moratorium. EcoEnergy and WPPI have been openly against the draft large wind energy ordinance, and have stated that if setbacks are ½ mile they won't be able to install any turbines. Believes that until they agree to all the parts of the ordinance, they should not be allowed to put anything up.

Kim Gruebling. The Plan Commission recommended that MET towers be allowed. They have had open meetings, at which people have stated that the wind data from the area does not support a wind turbine. MET towers are non-permanent structures. He would like to see the data they would provide about wind speeds. Gruebling also clarified that regarding Bembinster's comment about EcoEnergy and WPPI "agreeing" to the Town's ordinance, they don't have to agree with the ordinance, they just have to follow it.

Schneider asked how long the MET tower would be up; Bjurlin explained that one year is the minimum to get good data, 2 or 3 years is better. If there was a turbine project installed, a more permanent MET tower would be installed. A taller MET tower would be needed if wind turbines were erected, and they would probably take down the 60 meter tower and install an 80 meter tower, which would be at hub height. An 80 meter tower requires footings, and has guy wires. Schneider asked how much their investment would be in a MET tower, and would there be any recoupment if there was no wind project going forward? Bjurlin stated that MET towers costs are in the tens of thousands of dollars, and wind turbines cost significantly more. Franklin asked if the permanent MET tower controls the wind turbines; Bjurlin explained that they do not, they only measure wind speeds and that information is then used to adjust the turbines to run as efficiently as possible.

Doug Lee: stated that two individuals run air businesses in the area, he would like to take their concerns into consideration.

Matt Gaboda: believes there is nothing wrong with a MET tower in itself. The ordinance development process has gone on for over a year already, and the process to apply for a CUP to erect a MET tower would likely not be finalized until November 2008 when the moratorium would expire. With that in mind, he does not think that 2 or 3 months would make a difference in erecting the MET towers. Gaboda thinks that the energy companies working with the Town at this point means allowing the Town to finish its ordinance, and then apply for a CUP to erect a MET tower. Thinks the MET tower should be located in the lowest point where the turbines may be located, not the highest point as was done in Magnolia. This approach would present the worst case scenario regarding wind speeds, instead of best case scenario.

Curt Bjurlin: reiterated EcoEnergy's desire to put a MET tower up within the Town of Union.

Eric Kostecki: reminded the Board that they would have had one year of data already, if the MET towers had not been included in the original moratorium.

Public hearing closed at 7:56 pm.

Schneider expressed concerns about the guy wires used on the MET towers; bad for birds, take up a larger footprint, etc. Additionally, he had not up to this point heard about 80 meter MET towers being installed after turbines are put up, and their need for guy wires in addition to footings. He has concerns about ice build up on the guy wires.

Krajeck felt that without the information provided by the MET towers, the wind developers won't know if wind turbines will even work in the area. He believes this is just more information that should be obtained. Schneider clarified that the CUP application would be reviewed by the Plan Commission prior to approval.

Motion to remove MET towers from Ordinance 2007-02 made by George Franklin. Second by Don Krajeck.

Roll call vote: Kendall Schneider – Yes; George Franklin – Yes; Don Krajeck – Yes. Motion carried 3-0.

Fahey stated that he doesn't think MET towers will be allowed under A1 zoning, but he will do more

research.

Board Action: Request by Plan Commission that the draft Large Wind Energy Ordinance upon which the Plan Commission would act be prepared by the Town Attorney.

Krajeck stated that it was his understanding that this request is to have the attorney review and make final wording changes to the ordinance as drafted by the Plan Commission. The final version reviewed by the attorney would then return to the Plan Commission for final review and recommendation to the Town Board. This would not be occurring immediately, the Plan Commission simply wanted to gain approval from the Board so when the time was right the ordinance could go directly to the attorney without waiting for the item to be on a meeting agenda.

Motion to approve the request from the Plan Commission to have the draft Large Wind Energy Ordinance upon which they would act reviewed by the Town Attorney made by Don Krajeck. Second by George Franklin.

Motion carried by unanimous voice vote.

Public Hearing: Review and approval of extension of existing Conditional Use Permit held by Tom & Connie Davis 10608 N. East Union Rd. Evansville, WI 53536 to operate a pheasant shooting preserve on parcel 6-20-94 located along North East Union Rd. in the SW 1/4, NE 1/4 of Section of the Town of Union. The pheasant preserve may be open by appointment only between the hours of 8 a.m. and 5 p.m. Monday through Friday and from 8 a.m. - 5 p.m. on Saturdays and noon to 5 p.m. on Sundays beginning October 1st and ending April 30th. Hunting may commence at the east-west property line which is approximately 1,400 feet from the south property line.

Schneider stated that according to the wording of the original CUP, the request does not have to come before the Board for review and approval; the Plan Commission has the authority to approve the extension. The action that the Plan Commission took at its July 31 meeting is sufficient. No public hearing was held at the Board meeting.

Krajeck referenced an email he received about another event scheduled for the lodge, specifically a class reunion. Schneider informed the Board that a recommendation has been made by a member of the class holding the reunion to not have the event held there, and it is his understanding that it will not be held there.

Schneider spoke to Attorney Dregne today regarding the Plan Commission's request that the Board "authorize and direct the Town Attorney and the Building Inspector to develop and implement a plan to monitor compliance with the Conditional Use Permit and report any violations of the Permit to the Plan Commission and the Town Board." Gruebling stated that he felt problems needed to be reported in a timely manner for proper review by the Building Inspector or Town Supervisor/Plan Commission member so a report can be made and proper documentation completed. Schneider believes that as the authority over the CUP rests with the Plan Commission, a member of the Commission should be notified of problems. Franklin agrees, believes it is the responsibility of the Plan Commission.

Motion to follow the guidelines as adopted in October 2006 which allows the Plan Commission to authorize extensions of Conditional Use Permits made by Kendall Schneider. Second by George Franklin.

Krajeck asked for clarification regarding whether the motion is just restating existing language in the ordinances, or creating new language? Schneider clarified that the motion is restating existing language, and tying the original CUP issued to the Davis' in 2004 to the newer ordinance language.

Motion carried by unanimous voice vote.

Public Hearing: Review and approval of extension of existing Conditional Use Permit held by Bob Aebly to operate a gravel pit on 8 acres of land on Cty. Rd. T. Board Action: Request by Plan Commission for the Town Board to determine the appropriate application fee associated with this CUP.

No public hearing was held on this issue, as it was tabled at the last Plan Commission meeting.

Schneider stated that all CUPs are different, and they have to be looked at with that in mind. He asked the Board's opinion regarding when a new application should be required, perhaps when a new operator comes in to a pit? Krajeck stated that as the operator does not own the pit, the landowner owns the pit and receives financial compensation from the operator, they should be the one applying for the CUP. He further believes that a new application should not be submitted when a new operator is involved. He feels it is up to the landowner; if he wants to sell out of the pit he should pay the fees to obtain the CUP. Gruebling stated that he abstained from voting on the Plan Commission's motion, as he feels it is not their place to set fees. It is his opinion that the permit is expired, and paying the fee is the cost of doing business. The Town has costs to cover as well, related to issuing and regulating CUPs. He cited liquor licenses, which are renewed every year and are a cost of doing business.

Schneider reiterated the need to be sure all language is clearly defined in CUPs.

Lee mentioned that not all pits operate in the same manner; some operate every day, others operate for 3-4 years and then may be dormant for 8 years.

Alvin Francis stated that the Town has issued many CUPs, and the Plan Commission does not want to review the majority of them on a yearly basis. However, the Town does have the option to review the permits if there are complaints. In this case, the Plan Commission was unsure if there was a reclamation plan for the pit.

Krajeck reminded the Board that if it is considered a new application and there are mailings involved, there will be costs incurred by the Town and therefore the fee should be charged.

Motion to charge an application fee of \$500 for the CUP application for the Aebly gravel pit made by Don Krajeck. Second by George Franklin. Motion carried by unanimous voice vote.

Gruebling would like the Board to consider implementing a review fee, which would be less than the initial application fee but would help offset costs involved in the review.

Operator License Approvals – Shawn Kennedy, Trish Kelm, Mark Stueber, Debra Stueber, Sarah Michaelis, Nicole Powers, Tabbitha Ottenhausen, Nathan Brooks; Geneo's Red Barn

Motion to approve operator's licenses for Shawn Kennedy, Trish Kelm, Debra Stueber, Sarah Michaelis, Nicole Powers, Tabbitha Ottenhausen, and Nathan Brooks, with contingencies that Kennedy and Powers obtain responsible beverage servers certification, made by George Franklin. Second by Kendall Schneider. Motion carried by unanimous voice vote.

Update of Local Road Maintenance Agreement Non-Renewal by Rock County.

Schneider reported that he has been unable to set up a meeting date, but expects to have a date soon. Regarding culverts, Krajeck reported that the culvert on Brooklyn Evansville Road is in need of repair. Schneider explained that culvert replacements this year will cause the Town to incur the full costs, but the Town will receive 50% reimbursement from Rock County next year. Franklin reported that he pounded gravel in some of the holes on Cemetery Road, feels it should be grader patched.

Jerry Krueger inquired about whether the Town was still planning on making sand available to residents at the dump this winter. He has had people asking about it, planning on using the sand. The Board confirmed that it is still the intention of the Town to provide sand for resident use.

Update of Application, Possible Approval of Mobile Home Park License – Cavalier Village Mobile Home Park

Nothing to report.

Evansville-Union Implementation Committee Update, Appointment of Town of Union Representative

Motion to recommend Eric Larsen be appointed to fill vacancy made by Don Krajeck. Second by Kendall Schneider. Motion carried by unanimous voice vote.

Pay Bills

There being no further business to come before the Board, a motion was made by Kendall Schneider,

second by George Franklin, to adjourn the meeting. Bills were approved for payment and the meeting was adjourned at 8:56 p.m.

Respectfully submitted by:
Regina Ylvisaker, Clerk

Note: minutes are considered draft until reviewed and approved by the Town Board at a properly noticed meeting.